IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3120 OF 2007

Shri Chavgonda Balgonda Patil & Anr. ..Petitioners.
Vs.
Smt. Chandrabai Kalgonda Patil & Anr. ..Respondents.

Mr.Vijay Killedar, adv. for the Petitioners.

CORAM : J.H.BHATIA, J.
DATE : AUGUST 3, 2007.

P.C.:

1. Heard Mr.Killedar the learned counsel for the petitioners. Perused the impugned order. The respondent nos.1 and 2 claim to be widow and daughter respectively of the deceased Kalgonda Patil, who was allegedly owner of land gat no.346. He was also joint owner of the land gat no.314-A and 314-B. They filed the suit contending that the defendants, who are petitioners before this Court were trying to interfere in their possession and, therefore, they filed a suit for declaration of their title and injunction. The Regular Civil Suit No.143 of 2001 filed by them came to be dismissed in default and they also filed an application for restoration of that suit. That application for restoration of suit is still pending. They also filed an application, Exhibit 15 for the purpose of appointment of commissioner. Application was opposed by the present petitioners. After hearing

the parties, the learned trial Court appointed the Court Commissioner and directed him to supply sugar-cane crop of gat no.314-B to sugarcane factory and to collect and deposit bills of the said supplies with the Court. That order is challenged in this petition by the original defendants.

2. After hearing the learned counsel for the petitioner, I find that there appears to be dispute between the parties about the title over gat no.314-B. It appears that about the entrance of the names of the respondent in 7/12 extract, objection was taken however, the objection was rejected and thereafter, the present petitioners challenged that order. Collector allowed the appeal but the order passed by the Collector has been stayed by the Commissioner in R.T.S.Appeal No.246 of 2006. That appeal is still pending. In view of this, it is clear that there is serious dispute about title and possession over that land. Application for restoration of the suit is also pending. In such circumstances, I find no fault with the impugned order, which will be to protect the interest of all the parties and, therefore, I find no substance in the petition. In the result, petition stands dismissed.

3. At this stage, the learned counsel for the

petitioner seeks direction that the application for restoration of the suit may be disposed off as early as possible. The trial Court shall hear that application and dispose off the same as early as possible.

4. Petition stands disposed off accordingly.

[J.H.BHATIA, J.]